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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,922	02/05/2004	Edward Granger	DELE.003US2	7375
36257	7590	06/09/2006	EXAMINER	
PARSONS HSUE & DE RUNTZ LLP 595 MARKET STREET SUITE 1900 SAN FRANCISCO, CA 94105			LAUCHMAN, LAYLA G	
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

H-9

<b>Office Action Summary</b>	<b>Application No.</b> 10/773,922	<b>Applicant(s)</b> GRANGER, EDWARD	
	<b>Examiner</b> L. G. Lauchman	<b>Art Unit</b> 2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13, 24, 25 and 27-29 is/are allowed.
- 6) ☐ Claim(s) 14, 16, 26, 30 is/are rejected.
- 7) ☐ Claim(s) 15 and 17-23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/04</u> | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 16, 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Christie, Jr. et al (US 4,003,660) (hereafter “Christie”).

As to Claim 14, Christie discloses an apparatus, comprising (see Fig. 1): a source of radiation 13, a sensor 19, at least one aperture 17 for passing to the sensor radiation that is from the source and that has been reflected from the sample 11, said sensor responsive to the radiation through the aperture 17 to provide an output (col. 6, lines 25-29); a filter 18 for filtering radiation from the source received at the sensor, said filter having a frequency response that matches that of a human eye (col. 7, lines 44-61), and a circuit 36 providing a reading in response to the output (col. 8, lines 10-13).

As to Claims 16, the patent discloses a collimating lens 16 spaced at substantially a focal length from the first aperture, so that the lens focuses radiation from the source to the aperture (see col. 6, lines 9-17).

As to Claim 26, Christie discloses an apparatus, comprising (see Fig. 1), comprising passing radiation that has been reflected by the sample 11 to a sensor 19 through an aperture to provide an output; filtering radiation received at the sensor by a filter having frequency response

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that matches that of the human eye (col. 7, lines 44-61).; and providing a reading in response to the output.

Claim 30 is rejected under 35 U.S.C. 102(b) as being anticipated by Hill et al (US 3,856,408).

Hill teaches a method for measuring concentration of a solution, comprising (see Fig. 1): passing radiation that is from a source 1 and has been transmitted through the sample 4 to a sensor 10 through an aperture 9, said sensor responsive to the radiation through the aperture to provide an output; passing radiation that is from a source 13 and that has not been transmitted through the sample to a sensor 15, said sensor responsive to the radiation through the aperture 14 to provide an output; and providing reading 12 in response to the sensor outputs and comparing the readings.

### *Allowable Subject Matter*

The following is an examiner's statement of reasons for allowance:

As to Claim 1, the prior art of record taken along or in combination, fails to disclose or render obvious the two polygonal apertures oriented so that they are rotated relative to each other by an angle to reduce stray radiation that reaches the sensor, in combination with the rest of the limitations of the claim.

As to Claim 5, the prior art of record taken along or in combination, fails to disclose or render obvious a first and a second substantially equilateral triangular aperture for passing to the sensor radiation that is from the source that has been transmitted through or reflected from the sample, in combination with the rest of the limitations of the claim.

As to Claims 7 and 24, the prior art of record taken along or in combination, fails to disclose or render obvious a circuit providing a reading in response to the output, wherein the circuit includes an integrator and a sampling device that samples an output of the integrator at time intervals that are exponential functions of time, in combination with the rest of the limitations of the claim.

As to Claim 27, the prior art of record taken along or in combination, fails to disclose or render obvious the two apertures oriented so that they are rotated by substantially 60 degrees relative to each other, in combination with the rest of the limitations of the claim.

As to Claims 28 and 29, the prior art of record taken along or in combination, fails to disclose or render obvious a circuit providing a reading in response to the output, wherein the circuit includes an integrator and a sampling device that samples an output of the integrator at time intervals such that said integrator has a substantially constant resolution at different signal levels, in combination with the rest of the limitations of the claim.

Claims 15, 17-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

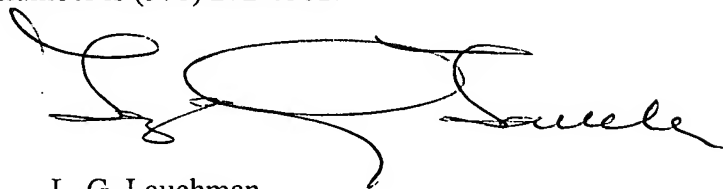
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to L. G. Lauchman whose telephone number is (571) 272-2418. The examiner's normal work schedule is 8:00am to 4:30pm (EST), Monday through Friday. If attempts to reach examiner by the telephone are unsuccessful, the examiner's supervisor Gregory J. Toatley, Jr. can be reached on (571) 272-2059, ext. 77.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application should be directed to the TC receptionist whose telephone number is (571) 272-1562.

A handwritten signature in black ink, appearing to read 'L. G. Lauchman', with a stylized, flowing script.

L. G. Lauchman  
Primary Examiner  
Art Unit 2877

June 6, 2006